

By Hand and ECF

June 2, 2016

The Honorable William H. Pauley, III
United States District Judge
United States Courthouse
500 Pearl Street
New York, NY 10007

Re: United States v. James Capers
15 Cr. 607 (WHP)

Dear Judge Pauley:

In compliance with Your Honor's Order of April 13, 2016, this letter is respectfully submitted to advise Your Honor of the status of the discovery in this matter.

Since Your Honor issued that Order, the defense has received two additional discovery productions. Each production is divided in files and sub-files which generally identify the material. The digital discovery is contained within the folders and/or subfolders. On or about April 29, 2016¹, we received a total of 5,364 files of discovery. On or about May 24, 2016, we received an additional 46 files of discovery material.

As of the date of this letter, we have received over 780 folders which contain 244,55 files of discovery material. To make all this comprehensible to myself, I have created an index which shows the production number, the primary files, the subfiles within and then the names of the data files. The chart also shows the number of pages in each data file when that information can be determined. This index, which is both attorney work product and a work in progress, is just over 22 pages long. If Your Honor

¹ Production dates are approximations. The Government sends the discovery to Ms. Greenwood, who processes the material and then sends the discovery to defense counsel. The dates used in this letter are the dates the material was received in my office.

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believes that reviewing this index would be helpful, I would be pleased to provide Your Honor with a copy of this index, *ex parte*, under seal.

The discovery consists of different kinds of media, audio, video, photographs, Excel spreadsheets², and paper or paper equivalents. By a paper equivalent, I refer to documents such as reports from cell phones³ and/or Facebook accounts which have been produced as .pdf documents. So far, we have received over 211,000 pages of material just from various Facebook accounts.

One of the difficulties in reviewing the discovery is that audio files, video files and photographs including data from Instagram⁴ cannot be searched with electronic tools. They have to be reviewed one at a time. To give Your Honor an idea of the magnitude of this task, I have been advised that it will require approximately 2,415 hours to review the audio files provided to date.

Ms. Greenwood has advised me that it will take a great deal of time to get the wiretaps (40+ separate targets, 16 months of intercepts) into a format where it can be effectively reviewed. We are working to expedite that process.

To focus and expedite the discovery review, we have asked the Government to identify the discovery that they intend to use as part of their case in chief. In response to that request, the Government has offered to meet with counsel for each defendant to discuss the discovery relevant to each client. Speaking for Mr. Capers, our meeting with the Government was helpful. I am confident that we can comply with the motion schedule Your Honor set. My concern is that given the vast amount of material that has been produced to date, it is difficult to see how this volume of material could be reviewed

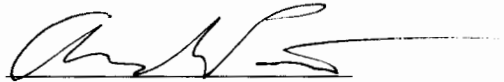
² Many of the Excel spreadsheets contain cellsite data which require expert assistance and often special software to interpret.

³ Information recovered from cell phones was produced either as .pdf documents or screen shots which are basically photographs of the content of the phone.

⁴ Instagram is an online photo sharing platform. So far we have received over 10,000 pages of material from various Instagram accounts. As the Instagram data is primarily photographs, it is not searchable.

in a meaningful manner by the late November trial date.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Andrew G. Patel', with a long horizontal line extending to the right.

Andrew G. Patel

cc: all counsel by ECF